IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3512 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BALDEVBHAI NATHABHAI SAVARIYA - Petitioner(s)

Versus

GUJARAT STATE ROAD TRANSPORT CORPORATION & 1 - Respondent(s)

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Appearance :

MR MUKESH H RATHOD for Petitioner No(s).: 1.

MR NAVIN K PAHWA for Respondent No(s).: 1.

RULE SERVED for Respondent No(s).: 2.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 15/07/2005

ORAL JUDGMENT

1. This petitioner by way of this petition has prayed to quash and set aside the conditions no. 2 & 3 of the Order No.D.E.O.1119/98 dated 22nd September, 1998 issued by respondent no.2.

2. The short facts of the case are that the petitioner was initially working as a Driver with the respondent Corporation. On 2nd March, 1992, while the petitioner was on duty, he was found under the influence of alcohol and had driven the said bus in a rash and negligent manner, which had resulted into the injuries to the passengers who were travelling in the bus. On account of this he was served with a show cause notice and thereafter departmental inquiry was initiated against him. Since the charges levelled against him were proved, he was dismissed from the service w.e.f. 23rd June, 1992.

2.1. Feeling aggrieved by the said order, the petitioner raised an industrial dispute which was ultimately referred to the Labour Court, Surat being Reference [L.C.S.] No. 17/95, for adjudication. The Labour Court after appreciating the materials produced before it partly allowed the Reference and directed the respondent Corporation to reinstate the petitioner in service on his original post, without back wages.

2.2. Being aggrieved by the said award the respondent Corporation approached this Court by way of Special Civil

Application No. 2029 of 1997, whereby this Court vide order dated 1st July, 1998 modified the said award directing the respondent Corporation to reinstate the petitioner as a helper without any back wages.

2.3. It is the case of the petitioner that though the petitioner is entitled for the benefit viz., full wages, notional increments and actual increments from the date of the publication of the award till the date of reinstatement, respondent no. 2 vide order dated 22nd September, 1998 had denied the said benefits. Hence, this petition.

3. Mr. Mukesh Rathod learned advocate for the petitioner has contended that this Court has modified the award to the extent of reinstatement on the post of Helper instead of Driver and except that there was no modification to the original award passed by the Labour Court. He has, therefore, submitted that the petitioner is entitled to receive full current wages from the date of award till the date of reinstatement and other notional and actual increments from the date of award.

4. I have heard the learned counsel for the

parties. Having perused the materials produced on record, it transpires that looking to the alleged misconduct against the petitioner, the Labour Court was justified in denying the back wages. I am in complete agreement with the reasonings adopted and findings arrived at by the Labour Court. Apart from that this Court has modified the award qua reinstatement only by directing to reinstate the petitioner on the post of helper. However on the facts and circumstances of the case, I am of the opinion, that the petitioner is entitled to receive full current wages from the date of award till the date of reinstatement and other notional and actual increments from the date of award.

5. For the foregoing reasons, the petition is partly allowed. The reliefs claimed in prayer 6 (B) is granted. The respondent Corporation shall grant other benefits from the date of award till the date of reinstatement and consequential benefits within a period of three months from the date of receipt of writ of this order. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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